

## REMARKS

By the present amendment, claims 28 – 31 and 41 have been amended, no claims have been cancelled, and no new claims have been added. Accordingly, claims 1-42 are presently pending, and favorable reconsideration thereof is respectfully requested. Claims 1, 32 and 41 are the independent claims.

Applicant wishes to thank the Examiner for the careful review of the present application and of the prior art. Applicant also wishes to thank the Examiner for the acceptance of the formal drawings filed July 6, 2004.

### Allowable Subject-Matter

Applicant wishes to thank the Examiner for the indication that claims 17 – 21 and 40 would be allowable if re-written in independent form.

Applicant also respectfully notes that no prior-art-based objections have been made to claims 30 and 31. Accordingly, assuming that the present response overcomes the formalities objections that were raised in relation to claims 30 and 31, Applicant respectfully requests confirmation of the allowability of these claims.

### 37 C.F.R. § 1.75(c), claims 28 and 29

The Examiner has objected to claims 28 and 29, based on the Examiner's view that these claims did not further limit the subject-matter of the claims from which they depend, as "the cord" was not positively recited in claim 1.

By the present amendment, claims 28 and 29 have been amended by replacing the former terminology, "wherein the cord comprises ... ", with "wherein the groove is configured to grip ...", thereby clarifying that these claims are adding structural configuration limitations to "the groove", which is

positively recited in claim 1. Applicant therefore respectfully submits that this ground of objection is overcome.

Applicant further respectfully submits that the foregoing amendments are not narrowing.

35 U.S.C. § 112, claims 30 and 31

The Examiner has rejected claims 30 and 31 under 35 U.S.C. § 112 as being indefinite, based on the Examiner's view that claims 1 and 29 lack antecedent basis for "first and second apparatuses" recited in the preambles of claims 30 and 31.

By the present amendment, the former preambles of claims 30 and 31 have been replaced with, "A system comprising a pair of apparatuses, each of which comprises the apparatus of claim 1 ...". Applicant therefore respectfully submits that this ground of rejection is overcome.

Applicant further respectfully submits that the foregoing amendments are not narrowing.

35 U.S.C. § 102(b): Howell

The Examiner has rejected claims 1-4, 9-16, 22-29, 41 and 42 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,199,758 ("Howell").

Applicant respectfully submits that the Howell reference fails to satisfy the requirements for a finding of anticipation of independent claim 1 or amended independent claim 41. In this regard, the standard for an anticipation rejection under 35 U.S.C. §102 has been well established by the Court of Appeals for the Federal Circuit, and is summarized in M.P.E.P. § 2131. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

*Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ... "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). ...

Independent claim 1 recites:

1. An apparatus for tightening a cord, the apparatus comprising:
  - a) a body; and
  - b) a grabber extending from the body and defining a groove therebetween configured to grip the cord therein.

Howell discloses a carrier apparatus 12 for carrying objects. As disclosed at col. 3, lines 29-55 of Howell,

"The carrier apparatus 12 ... is basically comprised of a carrier body 14 and a key ring 16 ...

As seen in the drawing figures, the carrier body 14 has a general tubular configuration with opposite first 22 and second 24 ends. The carrier body 14 is formed having a predetermined longitudinal length between its first and second ends 22, 24 ... The body has a general cylindrical exterior surface 26 and a hollow cylindrical bore 28 extending longitudinally through its interior. ...

A slot 34 is formed in the carrier body 14 between its first and second ends 22, 24. As seen in the drawing figures, the slot 34 is formed as a continuous spiral that spirals at least one half of a revolution around the carrier body between its first and second ends."

[emphasis added]

Howell describes the use of such an apparatus to grab the handles of a shopping bag, at col. 4, lines 25-44:

"In connecting the apparatus 12 of the invention on the cords or handles 52 of the shopping bag 54 shown in FIG. 6, the cords or handles 52 are first inserted into the first end 36 of the slot 34 at the first end 22 of the carrier body. The divergence of the slot at the first end 36 facilitates the insertion of the two bag handles 52 into the slot. With the handles or cords inserted into the first end of the slot, the carrier body 14 is then rotated around its longitudinal axis in a first direction indicated by the arrow 56 in drawing FIG. 6. By rotating the carrier body 14, the cords or handles 52 are directed through the spiraling slot 32 from the first end 22 of the body to the opposite second end 24 of the body where the handles exit the second end 38 of the slot. Directing the cords or handles 52 through the slot 34 in this manner threads the cords or handles through the interior bore 28 of the carrier body and attaches the carrier on the cords or handles in the orientation shown in FIG. 6."

[emphasis added]

The Examiner has compared the slot 34 of Howell to the "groove" recited in claim 1. However, as noted in the above passage quoted from col. 4 of Howell, the slot 34 of Howell is not "configured to grip the cord", as recited in claim 1. Rather, Howell states that the cords or handles are to be directed "through" the slot 34, to pass into the interior hollow cylindrical bore 28 of the carrier body 14. Indeed, gripping the handles in the slot 34 would defeat the purpose of the Howell invention, which requires the handles to pass through the slot and into the hollow interior bore 28 in this manner. Thus, the slot 34 of Howell is not a "groove ... configured to grip the cord therein", as recited in claim 1.

In addition, the Examiner appears to have compared a portion of the body 14 near the end 24 to the "grabber" recited in claim 1. However, Howell fails to disclose a "grabber extending from the body and defining a groove therebetween", as recited in claim 1. Effectively, it appears that Howell has only a body defining a slot, and does not have any "grabber ..." as separately recited and defined in subparagraph b) of claim 1. In this regard, as disclosed in the above passage quoted from col. 3 of Howell, the entire carrier body 14 of Howell lies in a "tubular" "cylindrical" space, and the slot 34 is formed as a continuous spiral that extends the entire length of the carrier body 14 between its first and second ends 22 and 24. The portion of the body 14 near the end 24, to which the Examiner has referred at the top of page 3 of the Office Action, is a portion of the carrier body 14, and lies in the same "tubular" "cylindrical" space as the rest of the body 14. Therefore, this portion of the body 14 is not "a grabber extending from the body", as recited in claim 1; rather, it is merely an end portion of the body. Moreover, even if the Examiner is inclined to view the portion of the body 14 near the end 24 as extending longitudinally away from the remainder of the body 14, then any arbitrary division between the portion of the body 14 near the end 24 and the rest of the body 14 would not define the slot 34; rather, as noted in the passage quoted from col. 3 of Howell, the slot 34 is formed as a continuous spiral extending along the entire length of the body 14. Thus, to the extent that the Examiner may view the portion of the body 14 near the end 24 as extending longitudinally away from the remainder of the body 14, the portion of the body 14 near the end 24 does not define the slot 34 between itself and the remainder of the body 14. Therefore, the portion of the body 14 near the end 24 is not a "grabber extending from the body and defining a groove therebetween", as recited in claim 1.

Thus, in view of any one of the above differences, the Howell reference fails to disclose at least one element or limitation of claim 1. Therefore, the Howell reference fails to satisfy the above-noted requirements for a finding of anticipation of claim 1. Applicant therefore respectfully requests that the rejection of claim 1 be withdrawn.

Claims 2-4, 9-16 and 22-29 are directly or indirectly dependent upon independent claim 1. Applicant therefore respectfully submits that these claims are allowable due to their dependencies, as well as the additional subject-matter that each of these claims recites.

By the present amendment, independent claim 41 has been amended to recite:

**41.** An apparatus for tightening a cord, the apparatus comprising:

a body;

means for grabbing the cord, the means for grabbing extending from the body; and

means for gripping the cord between the means for grabbing and the body.

As discussed in greater detail above in connection with claim 1, Howell discloses only a body 14 with a slot 34. Howell fails to disclose “means for grabbing the cord, the means for grabbing extending from the body”, as separately recited in amended claim 41. Likewise, as the cords or handles in Howell are held within the interior bore 28 of the body itself, it follows that Howell also fails to disclose “means for gripping the cord between the means for grabbing and the body”, as recited in amended claim 41.

Thus, in view of any one of the above differences, and for reasons similar to those presented above in connection with claim 1, the Howell reference fails to disclose at least one element or limitation of amended claim 41. Therefore, the Howell reference fails to satisfy the above-noted requirements for a finding of anticipation of amended claim 41. Applicant therefore respectfully requests that the rejection of claim 41 be withdrawn.

Claim 42 is dependent upon claim 41. Applicant therefore respectfully submits that claim 42 is allowable due to its dependency, as well as the additional subject-matter that it recites.

35 U.S.C. § 102(b): Thibeault

The Examiner has rejected claims 1-4, 9, 10, 12, 14, 22-29 and 32-39 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,771,699 ("Thibeault").

Applicant respectfully submits that the Thibeault reference fails to satisfy the requirements for a finding of anticipation of independent claim 1 or amended independent claim 32.

As noted above, claim 1 recites:

1. An apparatus for tightening a cord, the apparatus comprising:
  - a) a body; and
  - b) a grabber extending from the body and defining a groove therebetween configured to grip the cord therein.

Thibeault discloses an elongated shank 16 with a hook 18. The Examiner has compared the hook 18 to the "grabber" recited in claim 1, and appears to have compared the shank 16 to the "body" recited in claim 1. However, in Thibeault, the hook 18 extending from the shank 16 does not define "a groove therebetween", as recited in claim 1. In this regard, Applicant respectfully notes that the plain and ordinary meaning of the term "groove" connotes an elongated channel. For example, *Webster's Seventh New Collegiate Dictionary* defines "groove" as "1. a long narrow channel or depression". Applicant recognizes that the claims are to be interpreted in the light of the specification as a whole (see e.g. *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1576, 1

USPQ2d 1081, 1088 (Fed. Cir. 1986).) In the present case, Applicant's specification is entirely consistent with the plain and ordinary meaning of "groove" as discussed above. The hook 18 in Thibeault appears to define nothing more than a thin planar space between itself and the shank 16. Thus, the hook 18 of Thibeault does not define a "groove" between itself and the shank 16. In other words, Thibeault fails to disclose, "a grabber extending from the body and defining a groove therebetween", as recited in independent claim 1. Therefore, the Thibeault reference fails to satisfy the above-noted requirements for a finding of anticipation of claim 1. Accordingly, Applicant respectfully requests that the rejection of claim 1 be withdrawn.

Claims 2-4, 9, 10, 12, 14 and 22-29 are directly or indirectly dependent upon claim 1. Applicant therefore respectfully submits that these claims are allowable due to their dependencies, as well as the additional subject-matter that each of these claims recites.

Independent claim 32 recites:

**32.** A method of tightening a cord, the method comprising:

gripping a cord in a groove defined between a grabber of a tightener and a body of the tightener; and

pulling the tightener.

For reasons similar to those discussed above in connection with claim 1, Thibeault fails to disclose, "gripping a cord in a groove defined between a grabber of a tightener and a body of the tightener", as recited in claim 32. Therefore, the Thibeault reference fails to satisfy the above-noted requirements for a finding of anticipation of claim 32. Applicant therefore respectfully requests that the rejection of claim 32 be withdrawn.



Claims 33-39 are directly or indirectly dependent upon claim 32. Applicant therefore respectfully submits that these claims are allowable due to their dependencies, as well as the additional subject-matter that each of these claims recites.

35 U.S.C. § 103(a): Claims 5-8

The Examiner has rejected claims 5-8 under 35 U.S.C. § 103(a) as being unpatentable over either Howell or Thibeault.

Claims 5-8 are directly or indirectly dependent upon independent claim 1, which Applicant respectfully submits has been shown to be allowable. Applicant therefore respectfully submits that claims 5-8 are allowable due to their dependencies, as well as the additional subject-matter that each of these claims recites.

Petition for Extension of Time

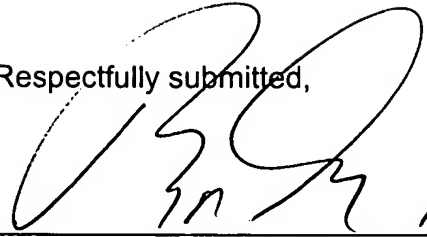
Applicant hereby petitions for a one-month extension of time, to effectively extend the deadline for responding to the Office Action mailed September 7, 2005 to Monday, January 9, 2006. A check in the amount of \$60.00 is enclosed as payment of the required extension fee for a small entity.

Conclusion

In view of the foregoing, Applicant respectfully submits that the present application is now in condition for allowance, and respectfully requests that a Notice of Allowance be issued.

Should the Examiner have any outstanding concerns, the Examiner is respectfully requested to contact the undersigned attorney at the Examiner's earliest convenience, to expedite the prosecution and allowance of this application.

Respectfully submitted,



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Ralph A. Dowell, Reg. No. 26,868  
DOWELL & DOWELL, P.C.  
Suite 406, 2111 Eisenhower Ave.  
Alexandria, VA 22314  
Telephone: 703 415 2555

Encl.: Check for \$60 for one-month extension of time